

March 12, 2002

U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW (2201A)
Washington, DC 20460

Barry E. Hill
Director

Re-Environmental Justice Complaint

Dear Mr. Hill,

I am respectfully submitting this **formal complaint under Presidential Executive Order 12898** regarding racial discrimination and disparate treatment which *my community and I am receiving from the United States Air Force and United States Marines in Hawai'i while serving my community as their Restoration Advisory Board (RAB) Chairman for the Bellows Air Force Base (AFB), Waimanalo, Hawai'i.*

While this letter will attempt to summarize the nature of this complaint, the most recently documented acts of discrimination against myself are blatantly obvious and are enclosed along with other evidence documents pertaining to this complaint. (Copies to be mailed)

Unfortunately, our RAB has been and is malfunctioning as a direct result of these acts of discrimination and disparate treatment being displayed towards myself and the community of Waimanalo, a 75% native Hawaiian community which I represent. As one of three (3) RAB's in place on Oahu, Hi. operating under the direction of the U.S. Air Force out of Hickam , AFB. As it is also obvious and records will show that our RAB is not and does not receive parity in its treatment concerning community involvement as well as violations of federal laws that govern RAB's

I am requesting your office's immediate attention and intervention to these knowingly and ongoing violations . As Community Co-Chairman of the RAB, I am seeking protection under environmental laws and assistance from your agency in restoring the needed Trust and enforcing federal mandates and law(s) governing this federally funded program.

The following is a chronologically detailed example of the unequal treatment being received and the environmental injustice tactics and behavior most recently being displayed by these two branches of the Department of Defense.

This is in direct conflict with Presidential Executive Order 12898 relating to Environmental Justice.



My name is [REDACTED] I am of African/American Indian descent. I have lived in Hawai'i since my 1972 discharge from the U.S. Marines here. I am a Waimanalo resident and business owner in Waimanalo for the past 22 years. As a landscape designer/builder/plant nursery/and consultant in business here since 1978, my personal and business accomplishments have been many; most recently the landscaping of the Hawaiian Waters Adventure Park (1999). I have also received Employer of the Year honors from the Honolulu Rotary Club (1997). I have been an active and respected community leader in Waimanalo for over 20 years, and I serve as its Restoration Advisory Board (RAB) Community Co-Chair, and also serve on various neighborhood boards for litter control and water quality committees.

I have also been active in my state as its Trails and Access Advisory Board Chairman (Oahu/and State wide) from 1996-2001 and a member since 1989 (a State of Hawai'i, Department of Land and Natural Resources, Division of Forestry and Wildlife program). I am also a member of the environmental watchdog organization, EnviroWatch, Inc. Our web site address is www.envirowatch.org.

With this brief bio of myself, I hope you can see that serving my community has been and is my privilege and honor. With that said, the bases of my complaint is as follows;

It is my understanding that any program or activity receiving EPA assistance shall not directly or through contractual or other arrangements (1) Deny a person any service, aid or other benefit of the program, (2) Provide a person any service, aid or other benefit that is different, or is provided differently from that provided to others under a program, (3) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid, or benefit provided by the program, (4) Subject a person to segregation in any manner or separate treatment in any way related to receiving benefits under the program, (5) Deny a person or a group of persons the opportunity to participate as a member of any planning or advisory body which is an integral part of the program. (6) to deny intended beneficiaries the benefits of the EPA assisted program, or subject beneficiaries to prohibited discrimination.

However, it is clear to me that the US Air Force and the U S Marines are practicing this prohibited discrimination while administering this federally funded, CERCLA/SARA /NEPA statutes mandated RAB clean-up in my community.

By subjecting myself and other community members to discrimination and unequal treatment, these Military Co-Chairs have been, and are, defeating and substantially impairing the accomplishment of the clean-up objectives of the RAB program at Bellows . For example, there has not been a RAB meeting in over a year where other RAB's have . This act alone does not provide the federally mandated community involvement , nor does it provide the community input to the program).

Enclosed are recent letters (Feb. 26, 2002) *as evidence that the Military Co-Chairs have tried to exclude me from participating as our RAB's chairman and are denying me and my community benefits of RAB's provided by law. As the RAB Community Co-Chair, I have yet to hear from my two (2) Military counterparts regarding RAB community issues and information regarding clean-up activities at Bellows AFB in 2002.*

(Military Co-Chairs have been and are withholding RAB related documents from community and not managing the designated information repository in our community library as per our charter and RAB protocol. Forcing me (as chairman) to seek information about RAB clean-up projects via FOIA, this action shows unequal treatment and is inconsistent with other RAB's or their chairman here under the direction of [REDACTED].)

The Restoration Advisory Board at Bellows Air Force Base (AFB) in Waimanalo was officially started in 1997. Since its inception I have been its only Chairperson. The RAB operates under a Charter which was revised in August 2000 to include the United States Marines.

While conducting our RAB, the transfer of land at Bellows AFB to the Marines began. This gave our RAB two military Co-Chairs, currently. They are [REDACTED], Marine Co-Chair and [REDACTED] Air Force Co-Chair. The DoD lead has been, and is currently, the Air Force's 15th Air Base Wing, Environmental Flight, out of Hickam AFB, Hawai'i, commanded by [REDACTED]. Previously, [REDACTED], who initially started our RAB in 1997, held the Military Co-Chair's position until his reassignment in late 2000 to the mainland.

Since 1997, when the process of clean-up at Bellow AFB began, the RAB has used the **Community Co-Chair(s) to its advantage, mainly public relations.** This campaign has given the appearance to the public that the (3) Air Force RABs were doing great things in each of the communities where they were operating. However, it appears that we were just 'rubber stamps of approval' for the whole process, which is what my RAB Community Co-Chair history from 1997-2000 will display.

1997, Sept. -> Community Co-Chairs meet with Thomas (Tade) McCall, Under Secretary of the Air Force at Hickam AFB. (Two Comm. Co-Chairs are given an award from Mr. McCall that day, myself and Hickam AFB Comm. Co-Chair [REDACTED]). {*note} [REDACTED] (caucasian) left the islands for a few years and has recently returned; in a March 5th, 2002 phone conversation, she called to inform me that she has now been hired as an independent contractor to handle public relation for the Bellows RAB. She has told me that she has no formal training or background in public relation field prior to the position. However, in contrast to myself and as an example of the unequal treatment and discrimination, I am still recognized as RAB Chairman by my community, but put on the bottom of a list of 20 to 25 prospective new potential RAB members by the USAF(in Feb 2002). This is disrespectful to myself and community who elected me to serve them as their Chairman and removing those who are still actively in place [REDACTED] however, is offered a paying job when she returns, while I'm put on the bottom of a list of interviewees and while I'm still sitting chairman, not quite EQUAL. As chairman can only be removed by his RAB members, per our charter.

1998 -> Comm. Co-Chairs meet Marilyn Null, Assist. Secretary of the Air Force at an Air Force sponsored dinner.

1998 -> Comm.Co-Chairs help organize and set up 1st Annual Tri-RAB (a meeting unifying the 3 Oahu Air Force RABs here) conference at Hickam AFB.

1999 -> Comm. Co-Chairs, 2nd Annual Tri-RAB.

1999 -> Comm. Co-Chairs are solicited to participate in setting up a Pacific Environmental Restoration Conference (PERC - 2000). I became a part of the steering committee for this effort from Aug. 1999 until April 2000. *But when the planning all but eliminated the community component from the conference and focused mainly on a mainland audience of regulators, scientists, and vendors I withdrew my participation.*

1999 -> as an Hawai'i delegate, I attended the National RAB Caucus, held in Washington, D.C. and attended by delegates from 29 states, to discuss RAB issues. The caucus lasted 3 days. *(I paid for my own trip to attend; no financial aid from the Air Force was given).*

After the Perc 2000 conference's failure to produce a worthy community component, it became more apparent to me that the attention to community itself and its members were being neglected by the Air Force. I alerted [REDACTED] on several occasions regarding this and questioned the lack of RAB meetings as an example. (However, [REDACTED] was in the beginning of his transition to relocate in Washington DC, with [REDACTED] taking his place.)

Our RAB charter states we will have one (1) meeting per quarter, four (4) per year. We have met less than 10 times since we started the RAB, and this includes just meeting spent showing us the sites or field trips to Bellows. This does not include my participation as noted above.

Without RAB meetings, [two (2) since 1999, one (1) in 2000 (land transfer related) and one (1) in 2001 (landfill related)], this does this allow our community information regarding clean-up and allow our community to participate in the RAB process. How do they keep the interest of its members, the community with these actions? .

According to our RAB charter, a Comm. Co-Chair is elected by his community RAB members and removed by them as well.

By 2001 the focus of our RAB became more of 'what are you doing in our backyard' rather than 'rubber stamping' the Air Force's program agenda for the community.

In April of 2001 I returned my comments in opposition to the Air Force's suggestion to leave a landfill in place at Bellows. In May I attended an agenda-setting meeting, called in order to set up a RAB meeting at Bellows. At this meeting, attended by my two military co-chairs, and myself, I was presented with a draft copy of the proposed agenda for a scheduled July RAB meeting to tell the community of their arrived decision.

*It read "...tour of landfill to be covered suggested". My military Co-Chairs and RAB program manager ([REDACTED]) all told me it was a done deal with the landfill. Leaving me with the feeling that the decision had been made to cover the land fill, without considering our community input or discussion concerning this decision. **With that understanding I left the meeting in protest and since have had to contact our Hawaii Congressional delegation to intervene in our RAB.***

*A stalemate has existed between the Waimanalo community and the Military since that meeting and the decision on the removal or cover-up of the landfill issue. I began to inform my community of the circumstances surrounding the landfill issue and informed all RAB members of the situation we were faced with. I told them that I was not privileged with all the data discussed relating to the landfill issue and would have to do some research on my own. After checking for more information, **I found that the designated information repository (the Waimanalo library) did not contain all of the minutes and other pertinent information relating to our RAB. I found that the information and documents, supposedly put into to the repository by the Air force, were either not there or had not been updated in months. I called the Librarian over to confirm my findings and we reported this at our next neighborhood board meeting in July 9, 2001.***

On July 5th in a call to [REDACTED], I requested the missing RAB documents (landfill and land transfer related) that should have been stored in our repository. I also questioned her in regards to why our repository was not kept up to date. She told me that she needed to have legal advise before she could release landfill or land transfer related info/and or documents to me.

Again, on July 6th, she confirmed to me in a call that the legal office would make the call on whether information was to be released. At this point, with assistance from my organization Envirowatch, Inc., a Freedom of Information Act (FOIA) request was filed with both military branches for landfill and land transfer (at Bellows) related documents. In other words, this is a RAB Community Co-Chair seeking RAB related information through FOIA, when they should have been provided to me freely and willingly!

*I also wrote a letter to [REDACTED] and requested to meet with him to discuss the landfill issue and to report that our RAB was malfunctioning. *I informed him, in my June letter, that, by its actions concerning the Waimanalo community, the Air Force had violated the spirit of the restoration effort at Bellows AFB, the law of the RAB charter, and most importantly the spirit and trust of community residents.**

At a July 9th, 2001 Neighborhood Board meeting, [REDACTED], RAB Co-Chair for the Air Force, began to solicit the audience for new RAB members. I was shocked and so were the four (4) other RAB members who also sit on the Neighborhood Board. I as Co-Chairman had not been advised of this prior to the meeting and it proved to show a real disconnect between our community and the military.

It also became clear that the Air Force, under the direction of [REDACTED], was trying to eliminate myself and the existing RAB membership of five (5) years and pick new members to suit their decision regarding the landfill issue.

Also in July 2001, I began writing each of Hawai'i's Congressional Delegates in Washington DC asking for their help in the landfill issue. Their letters are enclosed as attachments and we are still corresponding regarding the landfill.

On July 26, 2001 Envirowatch, Inc. and community leaders in Waimanalo hold a press conference on Bellows base to report violations of RAB charter, CERCLA/SARA, and NEPA mandates etc. to the local press. While inviting USAF/USMC Co-Chairs to attend for comments, military police complete with police attack dogs were dispatched instead, and no one from the program attended.

On September 5th, 2001, accompanied by my Envirowatch colleagues Joe Ryan and Carroll Cox, I met with [REDACTED] and his staff of three (3) lawyers to discuss the landfill.

At that meeting we asked some hard questions and stressed the importance of trust between the community and Air Force, and spoke of actions that had been taken to date by his staff to eliminate and negate our current RAB of 5 years, and how the Military had been employing divisive tactics in the community (not using myself as the community conduit to disseminate information to RAB members as per previous protocol and RAB charter bylaws). Also, why my Air Force Co-Chair was calling my RAB membership without my knowledge. And why [REDACTED] was requesting meetings with [REDACTED], our Neighborhood Board Chairman and RAB member to discuss RAB business. We asked why RAB information was not in the repository. He did not know. We asked why the Air Force was withholding information from myself and our RAB.

And why should I, the RAB Co-Chair, have to FOIA the Military for documents that should already be in the repository. Again we got no straight answer.

What the Colonel did say at our Sept. 5th, 2001 meeting was that he had invited [REDACTED] in Aug. 2001 to dinner at the home of a General in order to discuss the landfill. I was not informed of or aware of that meeting until that Sept. 5 meeting. The Col. also had met with Waimanalo's State Senator, Fred Hemmings, and State Rep. Joe Gomes, on separate occasions to discuss the landfill and to solicit their support for the Military's decision on the landfill issue (against that of the community); to no avail, as they both have stood behind the community on the issue (letters are enclosed). Again I was not a party to these RAB related meetings, (**knowingly continuing to circumvent the process**), nor were there any minutes to document these meetings for myself or our RAB membership to view.

While [REDACTED] has said he has put off and has not made a decision regarding the landfill privately and publicly, his actions have shown us differently. His delaying, and now attempts to recruit new RAB membership, and actions towards myself and fellow RAB members are evidence of his real intentions regarding myself and our community and federal laws.

On the 15th and 16th of September 2001, the Bellows RAB members and the Waimanalo community held a protest rally at Bellows main gate to show their unity and their opposition to the USAF/USMC decision to leave the landfill in place.

(The land at Bellows AFB contains a World War II landfill containing a number of highly toxic chemicals left over from military operations from the early 1940s through the mid 1970s. The dump must be dealt with as part of the land transfer between the Marines and the Air Force. The landfill is situated on lands that the Marines will get and train on).

From September until March 4th 2002, the USAF/USMC Co-Chairs or Col. Riggle have made no attempt to contact, communicate, include or involve myself in any Bellows, AFB RAB related business.

In a call I received from [REDACTED] (RAB/NHB-Chair) on March 4th 2002, we discussed a note he had received from USAF RAB Co-Chair [REDACTED] soliciting him again to meet with him outside the RAB protocol and without my presence at the meeting. Since he knew this was being done without my knowledge or involvement, he then faxed me a copy of the note and his letter in response. (copy enclosed).

[REDACTED]'s note cites that a CRP (program funding trigger) needed renewal, and [REDACTED] sent him a list of 20-25 USAF handpicked people (many of whom were not Waimanalo residents) that he was considering for the new RAB membership in Waimanalo .

If allowed to proceed, this action would allow the USAF to hand pick a new RAB in Waimanalo, exclude and or eliminate myself as well as other existing (5yr.) RAB members in order to get the landfill decision and citing CRP funding they need at Bellows.

[REDACTED]'s most recent actions are without doubt a directive of [REDACTED] and proof to show discriminating practices and harmful fragmenting intentions within our community.

In [REDACTED]'s letter responding to [REDACTED]'s note of Feb. 26, 2002, he informs and reminds [REDACTED] that (1) all RAB business should come through and involve myself, (2) that it would be dis-respectful to meet with him and without myself being notified and also present at such a meeting relating to RAB/community business, (3) that many of the proposed (new RAB) people he was enlisting were not Waimanalo residents and why this was?, (4) that [REDACTED] has been meeting with him (informally) monthly and discussing Bellows RAB issues and business, specifically the RAB's malfunctioning and the landfill , (5) he also questioned the exclusion of Carroll Cox Envirowatch , Inc. Pres. and (also of African/American decent) who has assisted myself and the Waimanalo community on this RAB issue and was present at all meetings regarding the landfill. * (Joe Ryan, also a Vice Pres. with Envirowatch and also present at the Sept. 5th meeting with [REDACTED] at Hickam AFB, was invited as one of the 25 new RAB members suggested by [REDACTED]. He is of Caucasian descent*).